

SEPARATING RUMORS AND FACTS

The proposed export terminal continues to be a discussion topic among Lummi Nation tribal members and others in Whatcom County. Because so much is being said, we think it is important to address some of the rumors with facts. In this issue ten rumors are followed by ten facts.

- If you would like an additional rumor to be addressed, please contact:**
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TEN RUMORS AND TEN FACTS

1

RUMOR
The proposed export terminal is already a done deal; the Environmental Impact Statement preparation is just for political show.

FACT
Existing federal and state laws require that the potential impacts of the proposed development project on the human environment are thoroughly evaluated and the results of this evaluation reported in an Environmental Impact Statement (EIS).

- Environmental impacts are broadly defined for the human environment to include issues areas such as:
- | | | |
|------------|--------------------------|---------------------|
| • Social | • Transportation | • Natural resources |
| • Economic | • General infrastructure | • Aesthetics |
| • Health | • Cultural properties | • Recreation |

The EIS is used to make informed permit decisions and is considered along with other legal and political factors that govern the permitting agencies. The Lummi Nation policy, legal and technical staff will stay fully engaged throughout this process to protect the interests of Lummi and its tribal members.



2

RUMOR
Lummi could file a lawsuit to stop this all right now.

FACT
SSA Marine owns the property at Cherry Point and is entitled to use their property consistent with applicable laws. Nothing to-date has taken place to give Lummi a right to sue SSA Marine.

- The company has applied for permits to develop their land and those applications offer no grounds to sue.
- The company has worked around fish windows for their water work, thus the testing activities offer no basis to sue either.
- The company did engage in unpermitted land clearing this past summer and has been fined by the regulating agencies. Lummi is not a regulating agency and does not have regulatory authority over SSA and this off-reservation property.



3

RUMOR
This proposed port development will destroy the Lummi Nation treaty fishing.

FACT
The EIS process will quantify fisheries impacts and other potential impacts where possible, as well as help identify required protections and mitigation measures to avoid or reduce unavoidable impacts. Regardless of the measures to avoid or minimize impacts to the fishery, if built the project will have unavoidable impacts on fishing in the area. The required General Council referendum will provide an opportunity for the General Council to decide if the required protections and mitigation measures are enough to offset the impacts.



4

RUMOR
If the Lummi Nation does not oppose the project now, we will have no say later.

FACT
No permit decision regarding the project will be made until the EIS is completed, which is will require a minimum of two years. Once the EIS is completed, more information about the proposed project, associated impacts and mitigation measures will be available.

The U.S. Army Corps of Engineers is required to consult with the Lummi Nation before making a permit decision, and existing laws prevent the Corps from approving a permit that will result in more than a very small impact on the Lummi Nation’s treaty rights without the consent of the Lummi Nation. The most legally significant time to take a position is during the consultation regarding treaty rights impacts with the Corps during the permit phase of the project.



5

RUMOR
Opposing the proposed development is the best way to protect our treaty rights.

FACT
The Lummi Nation is exerting its inherent power and influence by meeting with federal and state regulators, ensuring that Lummi-specific issues and concerns are addressed, and determining under what, if any, conditions this proposed development could move forward. The Lummi Nation is fully committed to keeping Lummi interests at the center of the EIS. We are prepared to uphold the Lummi Treaty rights, including in federal court if necessary.



TEN RUMORS AND TEN FACTS CONTINUED

6 RUMOR
The Lummi Nation Cherry Point Team is operating with no authority from the LIBC.

FACT
The team has been tasked to gather and assess information as specifically directed by the LIBC. A February 2011 LIBC Resolution (No. 2011-030) appointed the Cherry Point Team, comprised of policy, legal and technical staff, to develop and recommend tribal positions for LIBC consideration. The resolution also tasked the Cherry Point Team to do the following work:

- Gather information on the potential benefits and drawbacks of the proposal
- Inform Lummi tribal members of findings
- Conduct studies and assessments
- Identify impacts to tribal resources and rights, and measures to avoid them
- Identify mitigation measures for unavoidable impacts
- Meet with staff from other governments and nonprofits
- Negotiate with SSA Marine
- Report to commissions (e.g., LNRC, CRPC)
- Report to the LIBC
- Report to the General Council



7 RUMOR
SSA Marine desecrated graves of our ancestors during testing last summer.

FACT
Last year, the Lummi Nation Culture Department responded when SSA Marine, in conducting geotechnical tests at its site, entered an area of archaeological resources (shell midden). As in all similar cases, the Lummi Nation intervened, educated and protected the resource. No ancestral human remains were identified in the area disturbed by SSA Marine.



8 RUMOR:
By remaining neutral until the Environmental Impact Statement is complete, Lummi is in the pockets of SSA Marine.

FACT
The Lummi Nation is meeting monthly with SSA Marine because we want to know what they are doing every step of the way and to ensure that our interests are addressed. By having a direct line of communication with SSA Marine, the Lummi Nation can respond quickly to all kinds of issues that arise like the archaeological site disturbances last summer.

The Lummi Team has a long history of dealing with SSA Marine dating back to the 1990s. We have learned that it is generally more effective to actively participate in project evaluations than not to. Lummi was not involved with the other developments built at Cherry Point, which were constructed with no regard for Lummi treaty fishing and other rights.



9 RUMOR
The confidentiality agreement that the LIBC executed with SSA Marine prohibits the Cherry Point Team from giving information to the LIBC and the Lummi General Council. That is why the LIBC has been keeping secrets about the project from the Lummi people.

FACT
The confidentiality agreement restricts the Cherry Point Team from sharing confidential information with the general public. The agreement is mutual, meaning SSA Marine cannot share information about the Lummi Nation with the general public either. Nothing in the agreement limits the ability to communicate the scope of the proposed project, the types of discussions that take place with SSA Marine and the overall strategy with the Lummi General Council. In fact, at three General Council meetings, the Cherry Point Team shared project information that is not available to the general public.



10 RUMOR
The opinion of the Lummi tribal members does not matter to the LIBC or the Cherry Point Team.

FACT
Nothing could be farther from the truth. As you know, our lands are adjacent to one of the only remaining natural deep-water ports on the West Coast. Since the 1950s, we have seen one development proposal after another to build ports, industries, and refineries along the shores of Cherry Point.

The Cherry Point Team is sharing information about this proposal with the General Council pursuant to a resolution passed in 1998, which resolved that an informed General Council referendum vote will determine the final Lummi Nation position on Cherry Point. Our goal is to ensure that the General Council is well-versed about the issues that surround this large and complicated project and can effectively participate in the decision-making process.

As directed by the LIBC, the Cherry Point Team publishes this monthly page in the Squol Quol to inform Lummi tribal members about the proposed development at Cherry Point. Soon there will be a webpage about it on the Natural Resource Department website and our next General Council meeting on the issue is scheduled for May 30, 2012.

